

The Senate Veterans, Military and Homeland Security Committee offered the following substitute to HB 674:

A BILL TO BE ENTITLED
AN ACT

To amend Article 2 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to gambling and other offenses, so as to define certain terms; to provide that certain veterans organizations may sell certain pull tab games of chance; to transfer the responsibility for regulation of bingo games and issuance of bingo licenses from the Georgia Bureau of Investigation to the Department of Revenue; to amend Article 2 of Chapter 4 of Title 38 of the Official Code of Georgia Annotated, relating to veteran's benefits, so as to provide for certain bingo for veterans; to provide for definitions; to provide for licensing required to operate bingo games; to provide for the procedure for licensing, fees, and renewals; to provide for revocation of licenses; to provide for certification of tax-exempt status of veteran's organizations; to provide for restrictions as to ownership of premises used for bingo and age restrictions; to provide for an annual report to be filed with the commissioner of revenue; to provide for rules and regulations; to provide for penalties; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

Article 2 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to gambling and other offenses, is amended by adding a new Code section to read as follows:

"16-12-63.

(a) As used in this Code section, the term:

(1) 'Pull tab games' means multilayered paper tickets containing symbols hidden behind perforated tabs with two sides, with one side listing the winning combination of symbols, the cash payout for each combination, the total number of tickets that contain each winning combination, and the total number of tickets in the game. This information may also be posted in a printed sheet called a flare. The other side of the ticket contains the perforated tabs which, upon purchase, the player pulls to reveal his or her winnings, if any. Winnings are limited to \$500.00 per person per 24 hour time period.

(2) 'Veterans organization' means any organization or association chartered by the Congress of the United States which is exempt from federal income taxes but only if such organization is a post or organization of past or present members of the armed forces of the United States organized in the State of Georgia with at least 75 percent of the members of which are past or present members of the armed forces of the United States, and where no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(b) Any veterans organization shall be authorized to sell pull tab games, and such sale shall be exempt from the laws of this state proscribing gambling."

SECTION 2.

Said article is further amended by replacing "Director" with "Commissioner" and "director" with "commissioner" wherever the former word occurs in:

- (1) Code Section 16-12-51, relating to definitions pertaining to bingo;
- (2) Code Section 16-12-52, relating to license required to operate bingo game and recreational bingo exception;
- (3) Code Section 16-12-53, relating to bingo licensing procedures, fees, and renewals;
- (4) Code Section 16-12-54, relating to revocation of licenses and access to premises by law enforcement agencies;
- (5) Code Section 16-12-55, relating to certification of tax-exempt status of organization, issuance of certificate of licensure, and evidentiary nature of certificate;
- (6) Code Section 16-12-56, relating to issuance of annual one-day license to nonprofit, tax-exempt school and application;
- (7) Code Section 16-12-59, relating to annual report to be filed with the director;
- (8) Code Section 16-12-61, relating to promulgation of necessary rules and regulations by director authorized; and
- (9) Code Section 16-12-62, relating to penalties.

SECTION 3.

Said article is further amended by replacing "Georgia Bureau of Investigation" with "Department of Revenue" wherever the former words occur in:

- (1) Code Section 16-12-51, relating to definitions pertaining to bingo; and
- (2) Code Section 16-12-53, relating to bingo licensing procedures, fees, and renewals.

SECTION 4.

Article 2 of Chapter 4 of Title 38 of the Official Code of Georgia Annotated, relating to veteran's benefits, is amended by adding a new Part 1A to read as follows:

"Part 1A

38-4-40.

As used in this part, the term:

(1) 'Bingo game' means:

(A) A game of chance played on cards with numbered squares in which counters or indicators are placed on numbers chosen by lot and won by covering a previously specified number or order of numbered squares; and

(B) A game of chance played on cards with numbered sections listing winning combinations of letters and number symbols and containing hidden letter and number symbols where each participant receives one or more cards which afford a participant an opportunity to win something of value by opening, detaching, or otherwise removing one or more covers from the card to reveal a set of number and letter symbols.

A bingo game may be played manually or with an electronic or computer device that stores the numbers from a player's card or cards, tracks the numbers chosen by lot when such numbers are entered by the player, and notifies the player of a winning combination.

(2) 'Bingo session' means a time period during which bingo games are played.

(3) 'Commissioner' means the commissioner of revenue.

(4) 'Operate,' 'operated,' or 'operating' means the direction, supervision, management, operation, control, or guidance of activity.

(5) 'Veterans organization' means any organization or association chartered by the Congress of the United States which is exempt from federal income taxes and exempt from state income tax laws under Code Section 48-7-25 but only if such organization is a post or organization of past or present members of the armed forces of the United States organized in the State of Georgia of which at least 75 percent of the members are past or present members of the armed forces of the United States and of which no part of its net earnings inures to the benefit of any private shareholder or individual.

38-4-41.

Any other law to the contrary notwithstanding, no veterans organization shall be permitted to operate a bingo game until the commissioner issues a license to such organization authorizing it to do so. In the event of any controversy concerning whether or not a certain activity constitutes a bingo game for which a license may be issued, the decision of the commissioner shall control. The license described in this Code section shall be in addition to and not in lieu of any other licenses which may be required by this state or any political subdivision thereof, and no bingo game shall be operated until such time as all requisite licenses have been obtained.

38-4-42.

(a) Any veterans organization desiring to obtain a license to operate bingo games shall make application to the commissioner on forms prescribed by the Department of Revenue and shall pay an annual fee of \$100.00. No license shall be issued to any veterans organization unless the organization has been in existence for 12 months immediately prior to the issuance of the license. The license shall expire at 12:00 Midnight on December 31 following the granting of the license. Renewal applications for each calendar year shall be filed with the commissioner prior to January 1 of each year and shall be on a form prescribed by the Department of Revenue.

(b) Each application for a license and each application for renewal of a license shall contain the following information:

(1) The name and home address of the applicant and, if the applicant is an organization or association or other similar legal entity, the names and home addresses of each of the officers of the organization as well as the names and addresses of the directors, or other persons similarly situated, of the organization;

(2) The names and home addresses of each of the persons who will be operating, advertising, or promoting the bingo game;

(3) The names and home addresses of any persons, organizations, or other legal entities that will act as surety for the applicant or to which the applicant is financially indebted or to which any financial obligation is owed by the applicant;

(4) A determination letter from the Internal Revenue Service certifying that the applicant is an organization exempt under federal tax law;

(5) A statement affirming that the applicant is exempt under the income tax laws of this state under Code Section 48-7-25;

(6) The location at which the applicant will conduct the bingo games and, if the premises on which the bingo games are to be conducted is to be leased, a copy of the lease or rental agreement;

(7) A statement showing the convictions, if any, for criminal offenses other than minor traffic offenses of each of the persons listed in paragraphs (1), (2), and (3) of this subsection; and

(8) Any other necessary and reasonable information which the commissioner may require.

(c) The commissioner shall refuse to grant a bingo license to any applicant who fails to provide fully the information required by this Code section.

(d) When a veterans organization which operates or intends to operate bingo games for residents and patients of a retirement home, nursing home, or hospital operated by that veterans organization at which gross receipts are or will be limited to \$100.00 or less

during each bingo session and pays or will pay prizes having a value of \$100.00 or less during each bingo session, then, notwithstanding any other provision of this part or any rule or regulation promulgated by the commissioner pursuant to the provisions of subsection (j) of Code Section 38-4-48, neither the applicant nor any of the persons whose names and addresses are required under paragraphs (1) and (2) of subsection (b) of this Code section shall be required to submit or provide fingerprints or photographs as a condition of being granted a license.

(e) If the commissioner determines that a veterans organization has one or more auxiliaries, the members of any such auxiliary may assist in such veterans organization's bingo operations, even if such auxiliary holds a license under this part, and the members of the main veterans organization may assist in the bingo operations of any such licensed auxiliary.

38-4-43.

(a) The commissioner shall have the specific authority to suspend or revoke any license for any violation of this part or for any violation of any rule or regulation promulgated under this part. Any licensee accused of violating any provision of this part or of any rule or regulation promulgated hereunder shall be entitled, unless waived, to a hearing on the matter of the alleged violation conducted in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

(b) By making application for a license under this part, every applicant consents that the commissioner, as well as any of his or her agents, together with any prosecuting attorney, as well as any of his or her agents, may come upon the premises of any licensee or upon any premises on which any licensee is conducting a bingo game for the purpose of examining the accounts and records of the licensee to determine if a violation of this part has occurred.

38-4-44.

The commissioner shall upon the request of any prosecuting attorney or his or her designee certify the status of any veterans organization as to that veterans organization's exemption from payment of state income taxes as a nonprofit veterans organization. The commissioner shall also upon request issue a certificate indicating whether any particular veterans organization holds a currently valid license to operate a bingo game. Such certificates properly executed shall be admissible in evidence in any prosecution and shall be subject to disclosure notwithstanding Code Section 48-7-60, relative to the disclosure of income tax information, and shall not apply to the furnishing of such certificate.

38-4-45.

Bingo games shall be operated only on premises owned by the veterans organization operating the bingo game, or on any property leased or rented by the veterans organization. The veterans organization shall notify the commissioner of all locations at which the veterans organization conducts bingo games.

38-4-46.

No person under the age of 18 years shall be permitted to play any bingo game conducted pursuant to any license issued under this part unless accompanied by an adult. No person under the age of 18 years shall be permitted to conduct or assist in the conducting of any bingo game conducted pursuant to any license issued under this part.

38-4-47.

On or before April 15 of each year, every veterans organization engaged in operating bingo games shall file with the commissioner a report disclosing all receipts and expenditures relating to the operation of bingo games in the previous year. The report shall be in addition to all other reports required by law. The report shall be prepared and signed by a certified public accountant competent to prepare such a report and shall be deemed a public record subject to public inspection.

38-4-48.

(a) A licensee that conducts or operates a bingo session shall maintain the following records for at least three years from the date on which such bingo session is conducted:

(1) An itemized list of the gross receipts for each bingo session;

(2) An itemized list of all expenses other than prizes that are incurred in the conducting of the bingo session as well as the name of each person to whom the expenses are paid and a receipt for all of the expenses;

(3) A list of all prizes awarded during the bingo session and the name and address of all persons who are winners of prizes of \$50.00 or more in value;

(4) An itemized list of the recipients other than the licensee of the proceeds of the bingo game, including the name and address of each recipient to whom such funds are distributed; and

(5) A record of the number of persons who participate in any bingo session conducted by the licensee.

(b) A licensee shall:

(1) Own all the equipment used to conduct a bingo game or lease such equipment;

200 (2) Display its bingo license conspicuously at the location where the bingo game is
201 conducted;

202 (3) Conduct bingo games only at the single location specified in the licensee's
203 application; and

204 (4) Not conduct more than one bingo session during any one calendar day, which bingo
205 session shall not exceed five hours.

206 (c) No veterans organization shall enter into any contract with any individual, firm,
207 association, or corporation to have such individual, firm, association, or corporation operate
208 bingo games or concessions on behalf of the veterans organization.

209 (d) A veterans organization shall not lend its name nor allow its identity to be used by any
210 individual, firm, association, or corporation in the operating or advertising of a bingo game
211 in which such veterans organization is not directly and solely operating the bingo game.

212 (e) It shall be unlawful for two or more veterans organizations which are properly licensed
213 pursuant to this part to operate bingo games jointly or to operate bingo games upon the
214 same premises during any 18 hour period.

215 (f) It shall be unlawful for any veterans organization to award prizes in excess of
216 \$7,500.00 in cash during any calendar day or \$15,000.00 in cash during any calendar week.
217 It shall be unlawful to exceed such cash limits at any combination of locations operated by
218 a single licensee or such licensee's agents or employees. It shall be unlawful for two or
219 more licensees to pyramid the valuation of cash prizes in such manner as to exceed the
220 limits contained in this Code section. Noncash prizes shall be permitted in bingo games,
221 as defined in subparagraphs (A) and (B) of paragraph (1) of Code Section 38-4-40, and
222 shall be subject to all applicable state sales and other taxes as provided by law.

223 (g) No person or organization by whatever name or composition thereof shall take any
224 salary, expense money, or fees for the operation of any bingo game, except that not more
225 than \$75.00 per day may be paid to one or more individuals for assisting in the conduct of
226 such games on such day.

227 (h) No person shall pay consulting fees to any person for any services performed in
228 relation to the operation or conducting of a bingo game.

229 (i) A person who is a member of more than one veterans organization shall be permitted
230 to participate in the bingo operations of the veterans organizations of which such person
231 is a member; provided, however, that such person shall not receive more than \$75.00 per
232 day for assisting in the conduct of bingo games regardless of whether such person assists
233 both veterans organizations in the same day.

234 (j) The commissioner is authorized to promulgate rules and regulations which he or she
235 deems necessary for the proper administration and enforcement of this part.

236 38-4-49.

237 Any person who operates a bingo game for which a license is required without a valid
238 license issued by the commissioner as provided in this part commits the offense of
239 commercial gambling as defined in Code Section 16-12-22 and, upon conviction thereof,
240 shall be punished accordingly. Any person who knowingly aids, abets, or otherwise assists
241 in the operation of a bingo game for which a license is required and has not been obtained
242 as provided in this part similarly commits the offense of commercial gambling. Any
243 person who violates any other provision of this part shall be guilty of a misdemeanor of a
244 high and aggravated nature. Any person who commits any such violation after having
245 previously been convicted of any violation of this part shall be guilty of a felony and, upon
246 conviction thereof, shall be punished by imprisonment for not less than one nor more than
247 five years or by a fine not to exceed \$10,000.00, or both."

248 **SECTION 5.**

249 This Act shall become effective upon its approval by the Governor or its becoming law
250 without such approval.

251 **SECTION 6.**

252 All laws and parts of laws in conflict with this Act are repealed.